IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 4 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF WEALTH-TAX

Versus

SETH AMBALAL HIMATLAL

Appearance:

1. WEALTH TAX REFERENCE No. 4 of 1988

MR BB NAIK for MR MANISH R BHATT for Petitioner No. 1

MR MJ SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question has been referred for the opinion of this Court in respect of assessment year 1971-72 to 1974-75:-

"Whether, the Appellate Tribunal has been right in law in confirming the view taken by the Appellate Assistant Commissioner in deleting the addition of Rs.1,98,226/- included by the wealth-tax in the taxable wealth of the assessee?"

2. We have heard Mr. B.B. Naik learned counsel for the revenue and Mr. M.J. Shah learned counsel for the respondent-assessee.

3. The learned counsel have pointed out that the order of the Tribunal giving rise to this reference followed the Tribunal's earlier order for assessment year 1970-71 which gave rise to W.T.R. No.31 of 1982 and that in the said reference, this Court confirmed the view of the Tribunal and opined in favour of the assessee. In the said reference, the question referred for the opinion of this Court was as under:-

"Whether, on the facts and in the circumstances of the case, the amount of Rs.1,98,226/- can be included in the net wealth of the assessee for the assessment year in question?"

This Court answered the question in the negative i.e. in favour of the assessee and against the revenue.

4. Having heard the learned counsel for the parties and having perused the decision dated 24-1-1994 of this Court in W.T.R. No. 31 of 1982, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-